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## State Water Resources Control Board

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### REISSUED

## CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION ORDER NO. WQ 2021-0019-DWQ AND NOTICE OF APPLICABILITY FOR ENROLLMENT UNDER STATE WATER BOARD GENERAL ORDER FOR THE CORPS' NATIONWIDE PERMITS (ORDER NO. [WQ] 2020-0039-EXEC)

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**Effective Date:** June 8, 2021; **Reissued July 8, 2021**

**Program Type:** Fill/Excavation

**Project Type:** Roads and Highways

**Project:** Morro Creek Tributary Crossing Rehabilitation (North Culvert)  
Regulatory Measure ID: 443116  
WDID: SB21010IN

**Applicant:** Pacific Gas and Electric  
**Applicant Contact:** Craig Geldard  
Manager, Environmental Manager  
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**State Water Board Staff:** Ashley Powell  
Environmental Scientist  
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### State Water Board Contact Person:

For further assistance, please call State Water Resources Control Board (State Water Board) Staff listed above or (916) 341-5478 and ask to speak with the Wetlands Permitting and Planning Unit Supervisor.

This document serves as a Notice of Applicability (NOA) for enrollment under the State Water Board General Order for the Nationwide Permits (Order No. [WQ] 2020-0039-EXEC; SWRCB ID SB20031GN; hereafter referred to as the General Order) at the request of Pacific Gas and Electric (Applicant). The General Order can be accessed at [the Clean Water Act Section 401 - Certification and Wetlands Program, General Orders webpage](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html#yr\\_2020](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020)). On May 18, 2021, the State Water Board received a complete Notice of Intent (NOI) requesting authorization for the Applicant's Morro Creek Tributary Crossing Rehabilitation (North Culvert) Project (Project). After reviewing the NOI, the State Water Board has determined that the Project meets General Order requirements for Nationwide Permit 57: Electric Utility Line and Telecommunications Activities **and issued an NOA on June 8, 2021. The Applicant submitted a certification request as defined by 40 CFR section 121.5 concurrently to the State Water Board and Corps on June 22, 2021. This NOA is reissued in response to the certification request.**

**This order also serves as an individual certification of the Corps Nationwide Permit 57 under the authority of Clean Water Act Section 401.**

### **I. Project Description**

As described in the Project NOI and supplemental information (hereafter referred to as the Application), which is incorporated herein by reference, the purpose of the Project is to replace an existing culvert along Escabroso Road which crosses an intermittent stream connecting to Morro Creek. The existing culvert does not meet the 100-year flood design flows and manage the high debris load and the stream often overtops the road; it is to be replaced with larger culvert. Replacement will ensure long-term accessibility for PG&E to access transmission facilities.

### **II. Project Location**

The Project is located along Escabroso Road, in Atascadero, San Luis Obispo County, California. The Project coordinates are 35.470956 °N, -120.743189°W.

### **III. Receiving Waters Information**

The Project is located within the jurisdiction of the Central Coast Regional Water Quality Control Board. Receiving waters and groundwater potentially impacted by this Project are listed in Table 1. These waters are regulated in accordance with the applicable water quality control plan (Basin Plan) for the region and other plans and policies of the California Water Boards, which may be accessed online at [the State Water Boards' Plans and Policies webpage](http://www.waterboards.ca.gov/plans_policies/) ([http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/)).

**Table 1: Receiving Water Information**

Impact Site ID	Waterbody Name	Impacted Aquatic Resource Type	Water Board Hydrologic Units	Receiving Waters	Receiving Waters Beneficial Uses	303(d) Listing Pollutants
1	Unnamed Tributary	Intermittent Stream	HUC-10 No. 1806000604	Morro Creek	MUN, AGR, GWR, REC1, REC2, WILD, COLD, WARM, MIGR, SPWN, RARE, EST, FRSH, COMM	Fecal Coliform

**IV. Direct Impacts to Waters of the State**

Total Project fill/excavation quantities for all impacts are summarized in Table 2.

**Table 2: Total Project Fill/Excavation Quantity to Stream Channels**

Temporary Impact <sup>1</sup>	Permanent Impact - Physical Loss of Area	Permanent Impact - Degradation of Ecological Condition Only
0.0087 acres 52.7 linear feet	0.004 acres 31.8 linear feet	0.0 acres 0.0 linear feet

**V. Description of Indirect Impacts to Waters of the State**

The State Water Board recognizes the potential for indirect impacts to waters of the state associated with the Project. Potential indirect adverse effects include but are not limited to: increased sediment loading to streams from riparian and/or upland areas used for access or staging areas, possibility of introducing invasive species into the Project areas, and changing timing of runoff delivery to streams in the Project area. The Project, as designed, will not have significant indirect impacts to waters of the state.

<sup>1</sup> Includes only temporary direct impacts to waters of the state and does not include upland areas of temporary disturbance which could result in a discharge to waters of the state. Temporary impacts, by definition, are restored to pre-project conditions and therefore do not include a physical loss of area or degradation of ecological condition.

## VI. Conditions

### A. Scope of Authorization

- i. The Project may proceed only as described in the Application submitted to the State Water Board by the Applicant and in accordance with the conditions in State Water Board General Order No. [WQ] 2020-0039-EXEC and this NOA. This Certification and coverage under the General Order is no longer valid if the Project (as described) is modified. A copy of the General Order and its attachments can be found on the State Water Resources Control Board's [General Order Website](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020) ([https://www.waterboards.ca.gov/water\\_issues/programs/cwa401/generalorders.html#yr\\_2020](https://www.waterboards.ca.gov/water_issues/programs/cwa401/generalorders.html#yr_2020)).

Compliance with 40 CFR § 121.7(d)(2) - This condition is necessary to assure that any discharge under this Order will comply with water quality requirements as described in the General Order. Water Code section 13264 prohibits any discharge that is not specifically authorized in an order. The conditions set forth in State Water Board Water Quality General Order No. [WQ] 2020-0039-EXEC are further justified in Attachment C of that General Order.

### B. Standard Conditions (These conditions are also set forth in State Water Board General Order No. [WQ] 2020-0039-EXEC, in Section VI.A.1-A.3.)

- i. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- ii. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection 3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- iii. Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Compliance with 40 CFR § 121.7(d)(2) – Each standard condition in Section VI.B is necessary to assure that any discharge authorized under the general license or permit will comply with water quality requirements. Water quality requirements include state regulatory requirements for point source discharges into waters of the United States. California Code of Regulations, title 23, Chapter 28 sets forth regulations pertaining to water quality certifications for point source discharges to waters of the United States. These conditions were included to comply with

**section 3860, which sets forth conditions that must be included in all water quality certifications.**

**C. Mitigation for Temporary and Permanent Impacts**

- i. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities in compliance with the General Order and according to the restoration plan submitted by the Applicant in the Application.
- ii. The Applicant has provided a letter of credit in favor of the State Water Board to provide security against a default in providing the required compensatory mitigation. By January 15, 2022, the Applicant shall submit a mitigation plan to the State Water Board in accordance with section VI.F.2.e.ii of the General Order. By June 1, 2022, the applicant shall submit proof of credit purchase in accordance with section VI.F.2.e.ii.3 of the General Order.
- iii. Total required Project compensatory mitigation information for permanent physical loss of area shall be greater than or equal to the Project's permanent impact totals listed in Table 2, above, in the form of mitigation bank or in-lieu fee credit purchases in quantities consistent with the mitigation ratios provided in section VI.F.2.e.ii.2 of the General Order.

Compliance with 40 CFR § 121.7(d)(2) – Mitigation is required to ensure compliance with Executive Order W-59-93 that requires no net loss of the structure or function of California's wetland resources.

**VII. California Environmental Quality Act (CEQA)**

The State Water Board has determined that the Project is exempt from review under the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, 15301. Additionally, the State Water Board finds that no exceptions to the exemptions apply to the activities approved by this NOA.

**VIII. Certification Fees**

A fee payment of \$2066 was received by the State Water Board on April 26, 2021. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category E - Low Impact Discharges (fee code 87).

**IX. Public Notice**

The State Water Board provided public notice of the Application pursuant to California Code of Regulations, title 23, section 3858 from May 19, 2021 to June 09, 2021. The State Water Board did not receive any comments during the comment period.

## X. Water Quality Certification

I hereby issue this Notice of Applicability for the Morro Creek Tributary Crossing Rehabilitation (North Culvert) Project certifying that as long as all of the conditions listed in the General Order are met, any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards).

As a water quality certification and enrollment under State Water Board General Order No. [WQ] 2020-0039-EXEC, this Certification and Notice of Applicability serve as waste discharge requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.). State Water Board Order No. [WQ] 2020-0039-EXEC serves as waste discharge requirements in accordance with State Water Board Water Quality General Order No. 2003-0017-DWQ. **The State Water Board filed a Notice of Exemption (NOE) with the State Clearinghouse on June 10, 2021.**

Except insofar as may be modified by any preceding conditions, all NOA actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of the General Order and the attachments to the General Order; and, (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies, and the Regional Water Boards' Water Quality Control Plans and Policies.

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Karen Mogus, Deputy Director  
Division of Water Quality